



RETURN RECEIPT REC 10

Southeast Cut Bank
Sand Unit MTM68697X
SDR-922-92-01
3165.3 (922.1)

CERTIFIED-RETURN RECEIPT REQUESTED

December 3, 1991

Decision

Norman C. McKinney)
ANCO Operating Company)
1155 Sherman Street, Suite 301)
Denver, Colorado 80203)

SDR No. 922-92-01

AFFIRMED

ANCO Operating Company (ANCO) requested a State Director Review (SDR) of a decision by the Great Falls Resource Area (GFRA) Manager, dated October 10, 1991 (Enclosure 1), concerning the notice of proposed civil penalty for failure to plug and abandon the C507 well located on Federal oil and gas lease no. GF 078744(b).

The request for this SDR was dated October 17, 1991 (Enclosure 2), and was timely received on October 21, 1991. ANCO also requested that it be allowed to present their arguments orally concerning the notice for proposed civil penalty. ANCO's oral presentation was given at the Montana State Office (MSO) on November 12, 1991. ANCO also requested to submit additional data relevant to its case. This data was received on November 18, 1991.

On June 14, 1991, ANCO was ordered to plug and abandon the C507 injection well located in the Southeast Cut Bank Sand Unit in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot 3) section 7, T. 32 N., R. 5 W., Glacier County, Montana, by June 24, 1991. However, ANCO had not complied with this order, was informed of the violation, and was issued an order to plug the well by July 3, 1991. On July 1, 1991, ANCO contacted the GFRA and requested an extension of time to plug and abandon the well because of weather conditions. The GFRA granted an extension until July 10, 1991.

On July 15, 1991, the GFRA informed ANCO that it would be assessed \$500 per day commencing on July 15, 1991, in accordance with 43 CFR 3163.1(a)(1) unless the well was plugged and abandoned by August 4, 1991.

Because ANCO did not plug the well by August 4, 1991, the assessment was elevated to a civil penalty of \$500 per day for each day the violation continues, dating from the date of the notice of the violation (July 15, 1991 through August 24, 1991, under 43 CFR 3163.2(a).

On August 22, 1991, Lateral Technology, on behalf of ANCO, requested an extension to midnight August 27, 1991, to complete plugging of the well. The extension was granted and the Area Manager agreed not to elevate the proposed civil penalty assessment to \$5,000 per day until August 28, 1991.

ANCO did not plug the well by August 28, 1991, and the assessment was again elevated to a civil penalty of \$5,000 per day for each day the violation continues, dating from the date of the notice of the violation (July 15, 1991) or 40 days retroactive (whichever is shorter) through September 18, 1991, under 43 CFR 3163.2(b).

As of October 10, 1991, the well had remained unplugged. Since the assessment period had exceeded 60 days, and the civil penalty of \$5,000 per violation for each day cannot exceed a maximum of 60 days dating from the date of the notice of the violation, ANCO was notified of the notice of proposed civil penalty in the amount of \$300,000 on October 10, 1991.

ANCO stated in its SDR that the first notification to plug the well was sent to a former ANCO employee, who did not pass the notice on to ANCO. The records indicate (Enclosure 3) that Bob Nichols of your Denver office was notified by telephone on June 14, 1991, that the well needed to be plugged. A followup letter (Enclosure 4) was sent to ANCO's Cut Bank office on June 14, 1991, confirming the telephone conversation. There was no notification from ANCO of a change of address prior to sending the June 14, 1991, letter.

ANCO argued two points during their oral presentation. ANCO stated that there were internal problems within ANCO and, therefore, the funds to plug the subject well was not approved by the Board of Directors. However, this fact was never identified to the GFRA in writing during the entire time period when the GFRA was attempting to get ANCO to plug and abandon the well.

ANCO also stated that they did not receive final approval to plug the well from EPA until September 11, 1991. However, a review of the records revealed that EPA had granted approval by letter dated March 22, 1991, to plug the well (Enclosure 5). This letter also contained stipulations for plugging the well. On August 23, 1991, General Well Service, on behalf of ANCO, conducted an evaluation of the well. Based on the information obtained from the well evaluation, the plugging plan was amended and ANCO was notified of the amendment on September 11, 1991 (Enclosure 6). It is not uncommon for changes to be made to the plugging plan when well conditions are found to be different than first thought, either before the plugging operations begins or during the plugging operation. On October 10, 1991, the date ANCO was notified of the notice of proposed civil penalty, the well was not plugged.

We, therefore, affirm the GFRA Area Manager's decision on the notice of proposed civil penalty against ANCO. ANCO is hereby assessed a proposed civil penalty in the amount of \$300,000 for failure to plug and abandon the C507 well located on Federal oil and gas lease no. GF 078744(b).

Pursuant to the 43 CFR 3165.3(c), you have the right to request a hearing on the State Director's decision on the proposed civil penalty before an Administrative Law Judge or, in lieu of a hearing, may appeal the State Director's decision to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the attached Form 1842-1 (Enclosure 7). Pursuant to 43 CFR 3165.4 (e) "Because section 109 of the Federal Oil and Gas Royalty Management Act (FOGRMA) provides for judicial review of civil penalties determinations only where a person has requested a hearing on the record, a waiver of such hearing precludes further review by District Court." Therefore, if you appeal to the IBLA, you waive the right to appeal to District Court under section 109(j) of the FOGRMA.

If you request a hearing on the record, such request shall be filed in writing with the Montana State Office, State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, within 30 days of receipt of this decision. If you appeal to the IBLA, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from the receipt of this decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1 and to this office. The appellant has the burden of showing that the decision appealed from is in error.

/s/ Thomas P. Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

7 Enclosure

- 1-GFRA letter dated October 10, 1991 (2 pp)
- 2-SDR Request dated October 17, 1991 (6 pp)
- 3-Order to Plug the Well (Telephone Record) (1 p)
- 4-June 14, 1991, Letter (1 p)
- 5-EPA Approval Letter (2 pp)
- 6-September 11, 1991, Plugging Plan (3 pp)
- 7-Form 1842-1 (1 p)

bc: (w/o attms.)

WO (600), MIB, Rm. 5627

WO (610), LS., Rm. 501

DM, Dickinson

DM, Miles City

DM, Lewistown DO

AM, GFRA

AK SO

AR SO

CA SO

CO SO

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ID SO

NV SO

NM SO

OR SO

UT SO

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